

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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Opening Statement Ranking Member Elijah E. Cummings

Hearing on “Classifications and Redactions in FBI’s Investigative File” September 12, 2016

Here we are again—another day in the Oversight Committee, another emergency hearing about Hillary Clinton. Today is the second hearing about Secretary Clinton we have held in three business days, and tomorrow will be the third. As far as I can tell, the only “emergency” is that the election is less than two months away.

The real reason for today’s hearing is that FBI Director James Comey refused to be summoned before this Committee yet again.

Director Comey has already bent over backwards, departed from longstanding law enforcement precedent, and provided our Committee with an unmatched level of transparency about his internal decision-making regarding this investigation.

First, he announced the results of his investigation publicly. Normally, the FBI does not discuss its internal decision-making, but Director Comey did so in this case.

Second, he agreed to testify at an emergency hearing before our Committee 48 hours after his announcement. He sat right there in that witness chair and testified about the evidence they obtained, the law they applied, and the decision-making process they employed. He described how an “all-star team” of career investigators came to their unanimous conclusion, and how it wasn’t even a close call.

The Republicans did not like the answers Director Comey gave. So they demanded copies of the FBI’s internal investigative files. Again, in a sharp break from past precedent, the Director agreed to share documents from the investigation in an effort to put this question to rest.

But again, that was not enough for the Republicans. So they demanded the public release of these documents. Yet again, Director Comey broke from precedent and released the FBI’s internal investigative memo and the notes from their interview with Secretary Clinton.

Let me state the obvious here: no matter what Director Comey does, it will never be enough for Republicans. They are demanding that he bring criminal charges against Secretary Clinton despite the fact that the evidence is simply not there, and that is something nobody with any integrity would ever do.

Last week, the Republicans wanted Director Comey to come up here again. But this time, he had had enough. He spoke with Chairman Chaffetz personally, and he told him so.

In response, the Chairman rushed to call today's emergency hearing. He dashed out letters as late as Thursday night, threatening even more subpoenas.

The problem is that he invited the wrong people. The witnesses here today are the legislative affairs staffers from the FBI and other agencies. They did not make the decisions the Chairman is upset about. Those decisions were made by Director Comey. If the Chairman has a problem with Director Comey, he should take it up with him—not beat up on legislative affairs staffers because the FBI Director wants no part of any partisan charade.

The FBI's legislative affairs staffer has been in his job for just a few weeks and is currently serving in an "acting" capacity. He has been very responsive with our Committee, and it makes no sense to hammer him just because he is following the directives of Director Comey.

This whole hearing is a bait and switch. I have the invitation letters right here, and the Chairman says this hearing will be held in a classified session so that is what these witnesses prepared for. They did not prepare to answer questions in open session. So what are we doing here? At the last minute, the Chairman decided to hold this hearing in open session to try to generate more headlines rather than obtain the classified information he claims to seek.

It is fundamentally unfair—and irresponsible—to force these witnesses to answer questions about this issue in open session. As we have all heard, the classification level of these documents has changed repeatedly, and dozens of highly trained diplomats did not think many of them were classified. These witnesses should not be forced to make surprise, on-the-spot determinations about what they can and cannot say in an open session.

Not only is this unfair, but it risks the inadvertent disclosure of classified information. We should hold this hearing in closed session like the Chairman said he would, gather the information, and then review the written transcript to determine what can be released publicly and what cannot. That is how a responsible approach would look. But that is not what this is.

I guess this is what happens when you try to schedule a public attack against Hillary Clinton for every day of the week—you get frantic, and you swap substantive discussions for set-up hearings and cheap press hits.

Democrats on this Committee have serious questions about our broken classification system and why so many of these documents were retroactively classified long after they were sent. But the only way to have that productive substantive discussion is to go into closed session, as the Chairman's letters stated. The only reason for the hearing to stay open is because Republicans know a closed hearing won't be on camera.

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